

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BASIL BROOKS,	:	
	:	
Petitioner,	:	
	:	
v.	:	
ROBERT GILMORE,	:	CIVIL ACTION
Superintendent, SCI-Greene, and	:	No. 15-5659
PENNSYLVANIA DEPARTMENT OF	:	
CORRECTIONS,	:	
	:	
Respondents.	:	

MCHUGH, J.

AUGUST 11, 2017

ORDER

This 11th day of August, 2017, upon careful and independent consideration of the Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, and after review of the Report and Recommendation of the Magistrate Judge, it is hereby **ORDERED** that:

1. The Report and Recommendation is **ADOPTED** as to all claims except the claim of ineffectiveness for failure to object to the trial court's reasonable doubt instruction.
2. The Petition for Writ of Habeas Corpus is **GRANTED** as to the reasonable doubt claim.

Petitioner must be retried within 180 days or released.
3. Petitioner's remaining claims are **DENIED**.
4. A certificate of appealability is **DENIED** on Petitioner's remaining claims.

/s/ Gerald Austin McHugh
United States District Judge